



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

Marjie

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

July 18, 1984

Mr. Wendell Owen
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Dear Mr. Owen:

Attached is a memo concerning an issue of incompleteness which was inadvertently left out of the July 13, 1984 Incompleteness Response.

If you have any questions, please contact me.

Best Regards,

Dianne R. Nielson
Director

DRN/mjm

Attachment

cc: Ken Rothy, Co-Op Mining Company
Carl Kingston, Co-Op Mining Company
Barbara Roberts, Attorney General's Office
Mary Boucek, DOGM

96300



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

July 17, 1984

TO: Dianne R. Nielson, Director
FROM: Mary M. Boucek, Permit Supervisor/Reclamation Biologist *mmB*
RE: Incomplete Response, Co-op Mining Company, Bear Canyon
Mine, ACT/015/025, #2, Emery County, Utah

The July 13, 1984 memo, M. Boucek to D. Nielson, inadvertently left out one item of incompleteness according to the Division's most recent review of Co-op's submittals, as follows:

UMC 783.25 Cross-Sections, Maps and Plans

Although the applicant has provided a strike and dip symbol on Plate 6-A, the symbol is located outside the proposed mine plan area and apparently in a stratigraphic unit beneath the coal. In addition, the strike and dip appear to be reversed.

The applicant has not provided the strike and dip of the coal to be mined within the proposed mine plan area as required by UMC 783.25(d). Therefore, UMC 783.25(d) is determined to be incomplete.

MMB/btb

cc: Wendell Owen, Co-op Mining Company
Carl Kingston, Co-op Mining Company
Barbara Roberts, Attorney General's Office
Ron Daniels, DOGM
Jim Smith, DOGM
Steve Cox, DOGM
Pam Grubaugh-Littig, DOGM
Ev Hooper, DOGM
Tom Munson, DOGM
Rick Smith, DOGM
John Whitehead, DOGM

88340-23



THE ATTORNEY GENERAL
STATE OF UTAH
DAVID L. WILKINSON
ATTORNEY GENERAL

PAUL M. TINKER
DEPUTY ATTORNEY GENERAL

DALLIN W. JENSEN
Solicitor General

FRANKLYN B. MATHESON
Senior Assistant Attorney General

ROBERT R. WALLACE
Chief Trial Counsel

WILLIAM T. EVANS, CHIEF
Human Resources Division

DONALD S. COLEMAN, CHIEF
Physical Resources Division

STEPHEN G. SCHWENDIMAN, CHIEF
Tax & Business Regulation Division

EARL F. DORIUS, CHIEF
Governmental Affairs Division

PAUL M. WARNER, CHIEF
Logation Division

June 19, 1984

Carl E. Kingston
53 West Angelo Avenue
Salt Lake City, Utah

Dear Carl:

In response to your June 11, 1984 letter requesting hydrologic information pursuant to Section 40-10-10(2)(c) Utah Code Annotated (1953, as amended), the following observations can be made. The requirements of Section 40-10-10(2)(c) are two-fold. It requires both specific mine site information and general area information. The statute provides that the specific information required in the mine plan "... shall not be required until such time as hydrologic information on the general area prior to mining is made available...." (Section 40-10-10(2)(c)).

The Division has, in fact, made such general information available in writing in Section 783.13(a)(1) of the March 27, 1984 Determination of Completeness through a reference to a 1981 United States Geological Survey report entitled "Hydrology of the Coal Resource Areas in the Upper Drainages of Huntington and Cottonwood Creeks, Central Utah" by Terence W. Danielson, et al. It is apparent through citations in earlier submittals from Co-op that such publication was already known to Co-op. In addition, the Cumulative Hydrologic Impact Analysis (CHIA) for the general area has recently been completed and is available in the Division offices. As you may be aware through correspondence to Co-op from the Division, the general hydrology portion of the mine plan is already complete and such information would only be incidentally helpful.

The specific hydrologic consequences for the mine site area must be supplied to the Division by the operator. The

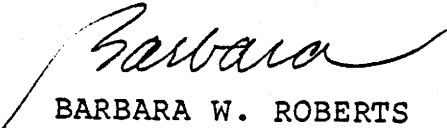
Carl E. Kingston
June 19, 1984
Page Two

general information made available to the operator may be used as a starting point, but the specific information is necessary "... so that an assessment can be made by the Division of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and, particularly, upon water availability...." (Section 40-10-10(2)(c)).

Again, the general area information is complete in Co-op's mine plan. The requirement for specific information on the mine site is not complete. Further, this latter requirement is for the site specific hydrologic consequences and, therefore, would not be covered in the detail necessary in any general area publication.

I hope this clarifies the requirement for information.

Sincerely,



BARBARA W. ROBERTS
Assistant Attorney General

BWR/dp

CC: DR Nielson
BW Roberts VB
RW Daniels
mm Boucek

Carl E. Kingston

ATTORNEY AT LAW
53 WEST ANGELO AVENUE
P. O. BOX 15809
SALT LAKE CITY, UTAH 84115
TELEPHONE (801) 486-1458 OR (801) 486-5048

RECEIVED

JUN 13 1984

DIVISION OF OIL
GAS & MINING

June 11, 1984

Division of Oil, Gas & Mining
4241 State Office Building
Salt Lake City, Utah 84114

Re: Co-op Mining Company

Gentlemen:

It appears that the major part of the Division's determination of "incompleteness" in Co-op's permit application concerns information on hydrology. Under Section 40-10-10(c) U.C.A., 1953 as amended, this information must be provided by "an appropriate federal or state agency". Co-op has requested this information in the past, but has been unsuccessful in obtaining it, although the Division does have it available from other sources. It is unlikely that any information on the area covered by Co-op's mining plan could add anything or would be any different from that already available to the Division. However, in order that the deficiencies indicated by the Division can be addressed, formal request is hereby made that you provide Co-op with the information detailed in Section 40-10-10(c), U.C.A., 1953.

Very truly yours,



Carl E. Kingston

CEK/kj

CO-OP MINING COMPANY
BOX 300
HUNTINGTON, UTAH 84528

March 31, 1980

*Coop-Bear Lyn
Mine*

#2

Mr. Ronald W. Daniels
Department of Natural Resources
Division of Oil, Gas, and Mining
1588 West North Temple
Salt Lake City, Utah 84116

Dear Mr. Daniels:

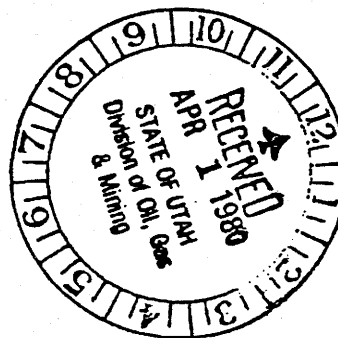
The Co-op Mining Company agrees to the stipulations that are listed in your letter of March 12, 1980 (copy enclosed) number one through number six, for the approval of our Bear Creek Canyon portal.

We request that the Division approach the Board for consideration at their meeting on April 11, 1980, so we can begin work at the earliest possible date, in order to be able to complete it during the 1980 season. Our agreement with Castle Valley Special Service District is being completed, and a copy will be sent to you before the April 11 meeting.

Respectfully,

W J Owen
W J Owen

Co-op Mining Company



SCOTT M. MATHESON
Governor



OIL, GAS, AND MINING BOARD

DRDON E. HARMSION
Executive Director,
NATURAL RESOURCES

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS, AND MINING
1588 West North Temple
Salt Lake City, Utah 84116
(801) 533-5771

CHARLES R. HENDERSON
Chairman

JOHN L. BULL
C. RAY JOVELIN
THADIS W. BOX
CONSTANCE K. LUNDBERG
EDWARD T. BICK
E. STELL MONTYRE

CLEON B. FEIGHT
Director

March 12, 1980

#2

Mr. Wendell J. Owen
Co-op Mining Company
P.O. Box 300
Huntington, Utah 84128

RE: Bear Creek Canyon Portal
Emery County, Utah
ACT/015/025

Dear Mr. Owen:

The Division staff has completed its review of the plans submitted for the Bear Creek Canyon Portal. The Division is prepared to approach the Board of Oil, Gas and Mining for the issuance of tentative approval under the interim regulatory program provided, however, that the following stipulations are agreed upon.

1. Mining will not occur within 100 feet on either side of the two major normal faults that cross the property, trending north-south. Consult the enclosed map.
2. Culverts shall be placed in accordance with the proposed permanent program requirements. A copy of the applicable requirements are enclosed for your reference. Any section of road that is used for coal haulage shall be designed, constructed and maintained as a Class I road. All other sections of road shall be designed, constructed and maintained as a Class II road.
3. The proposed road crossing of Bear Creek shall utilize culverts that will pass at a minimum 130 cubic feet per second with headwater no higher than the culvert intake. This requires either one 60 inch culvert, two 48 inch culverts, or three 42 inch culverts.

Mr. Wendell J. Owen
March 12, 1980
Page Two

The wash adjacent to the sediment pond that was filled-in must have a culvert placed in it. A culvert capable of passing at a minimum 3 cubic feet per second is required. An 18 inch culvert is adequate.

Inlets and outlets of these structures must be rip-rapped and trash racks must be provided upstream of the inlets.

4. The disturbed area at the face-up shall be graded so as to drain runoff occurring from the disturbed area only into the underground workings. Runoff from the undisturbed area shall be diverted from the pad by the use of revegetated berms and other appropriate diversion structures.
5. The proposed fuel storage facility, as shown on the map received December 19, 1979, shall be bermed such that if a spill occurred complete containment of the fuel capacity is possible.
6. The mine site is to be inspected by the Division when surface construction is completed for compliance with the permit. If violations are found, compliance shall be completed prior to the mining of coal.

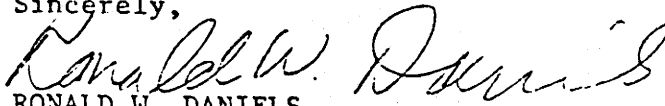
In addition to the above stipulations, that must be agreed upon prior to issuing tentative approval, the Division must resolve the protest submitted by the Castle Valley Special Service District.

Upon receipt of agreement to the stipulations and resolution of the protest filed by the Castle Valley Special Service District the Division will approach the Board for the issuance of tentative approval under the interim regulatory program. Co-op Coal Company is advised that a new permit will be required when the permanent program becomes effective. The gathering of data for the permit application should begin immediately.

PLEASE NOTE THAT NO MINING ACTIVITIES MAY BEGIN UNTIL FINAL APPROVAL IS ISSUED.

If you have any questions, please feel free to call.

Sincerely,


RONALD W. DANIELS
COORDINATOR OF MINED LAND DEVELOPMENT

RWD/te

Enclosure: Sections MC 817.50-817.166 of Proposed Permanent Regulations.
Map

cc: Eldon Kingston, Co-op Mining Co.
Donald A. Crane, Region V, O.S.M.

(C) held at least one public hearing on the proposed regulations. The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

(b) Not later than one year after the enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards based on and conforming to the provisions of title V and establishing procedures and requirements for preparation, submission, and approval of State programs; and development and implementation of Federal programs under the title. The Secretary shall promulgate these regulations, which shall be concise and written in plain, understandable language in accordance with the procedures in section 501 (a).

SEC. 502. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

(b) All surface coal mining operations on lands on which such operations are regulated by a State which commence operations pursuant to a permit issued on or after six months from the date of enactment of this Act shall comply, and such permits shall contain terms requiring compliance with, the provisions set out in subsection (c) of this section. Prior to final disapproval of a State program or prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, a State may issue such permits.

(c) On and after nine months from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the provisions of subsections 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(15), 515(b)(19), and 515(d) of this Act or, where a surface coal mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, such operation shall comply with the requirements of section 515(c)(4) and (5) without regard to the requirements of section 515(b)(3) or 515(d)(2) and (3), with respect to lands from which overburden and the coal seam being mined have not been removed: *Provided, however*, That surface coal mining operations in operation pursuant to a permit issued by a State before the date of enactment of this Act, issued to a person as defined in section 701(19) in existence prior to May 2, 1977 and operated by a person whose total annual production of coal from surface and underground coal mining operations does not exceed one hundred thousand tons shall not be subject to the provisions of this subsection except with reference to the provision of subsection 515(d)(1) until January 1, 1979.

(d) Not later than two months following the approval of a State program pursuant to section 503 or the implementation of a Federal program pursuant to section 504, regardless of litigation contesting that approval or implementation, all operators of surface coal mines in

expectation of operating months from the approval of a Federal program, shall have regulatory authority. Such authority shall terminate after the expiration of the State program or the implementation of the Federal program. The implementing authority shall permit within eight months of the expiration of the program or the implementation of the Federal program, if specially enjoined by a court, to continue operation for no more than forty-two months.

(e) Within six months Secretary shall implement shall remain in effect in are required to comply w program has been appro program has been imple program shall—

(1) include inspection made (but at least one without advance notice) of ascertaining compliance with (a) and (c) above. The purpose of the inspection is to determine the need for enforcement action to be taken under the provision of the Act relating to inspections;

(2) provide that if that any surface coal mine inspection is required by subsection (1) of this section, the Secretary shall, in the information which is submitted to the Secretary by the State, provide information which is being used by the Secretary for the purpose of determining whether or not the standards are being met. The Secretary shall, if any, to be implemented by Federal inspection provisions of this title, information provided by the Secretary shall notify the Secretary of any proposed to be carried out to accompany the inspection.

(3) provide that

(4) provide that information obtained from those inspections is available to the Secretary and for the administration of the program pursuant to the provisions of the Act.

(5) for purpose means personnel of Enforcement and Geological Survey Enforcement and Secretary, or such Conservation Service Secretary on a re

expectation of operating such mines after the expiration of eight months from the approval of a State program or the implementation of a Federal program, shall file an application for a permit with the regulatory authority. Such application shall cover those lands to be mined after the expiration of eight months from the approval of a State program or the implementation of a Federal program. The regulatory authority shall process such applications and grant or deny a permit within eight months after the date of approval of the State program or the implementation of the Federal program, unless specially enjoined by a court of competent jurisdiction, but in no case later than forty-two months from the date of enactment of this Act.

(e) Within six months after the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State as surface coal mining operations are required to comply with the provisions of this Act, until the State program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall—

Federal
enforcement
program.

(1) include inspections of surface coal mine sites which may be made (but at least one inspection for every site every six months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsections (b) and (c) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provision of this title to correct violations identified at the inspections;

Inspections.

(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of subsections (b) and (c) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made;

Reports, filing.

(4) provide that moneys authorized by section 712 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the State for conducting those inspections in which the standards of this Act are enforced and for the administration of this section.

Post, p. 524.

(5) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

"Federal
inspector."

Interim period.

(f) Following the final disapproval of a State program, and prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act. During such period no new permits shall be issued by the State whose program has been disapproved. Permits which lapse during such period may continue in full force and effect until promulgation of a Federal program or a Federal lands program.

STATE PROGRAMS

30 USC 1253.

Post, p. 504.

Post, p. 510.

Ante, p. 456.

SEC. 503. (a) Each State in which there are or may be conducted surface coal mining operations on non-Federal lands, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in sections 521 and 523 and title IV of this Act, shall submit to the Secretary, by the end of the eighteenth-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulations of surface coal mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 522 provided that the designation of Federal lands unsuitable for mining shall be performed exclusively by the Secretary after consultation with the State; and

(6) establishment for the purposes of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations; and

(7) rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the views of the Environmental Protection Agency on the aspects of a State program standards promulgated under the Clean Air Act, the Clean Water Act, the Pollution Control Act, and the Clean Air Act, as amended;

(3) held at least one public hearing in the State; and

(4) found that the State has the personnel necessary for the protection standards.

The Secretary shall approve or in part, within six full months after the date a program was submitted to him.

(c) If the Secretary disapproves a State program in whole or in part, he shall set forth in detail the reasons for his disapproval and the days in which to resubmit a program. The Secretary shall approve or in part, within six full months after the date a program was submitted to him.

(d) For the purposes of this section, a State to take any action to enforce a State program is enjoined by the issuance of a Federal program. Regulation operations covered or to the injunction shall be in effect until such time as the Secretary shall find that the State has met the requirements of sections 502 of this Act, until such time as the Secretary shall find that the State has met the requirements of sections 503 and 504 shall again be in effect.

SEC. 504. (a) The Secretary shall not approve or in part, within six full months after the date a program was submitted to him, if such State program—

(1) fails to submit a State program by the end of the eighteenth-month period beginning on the date of enactment of this Act;

(2) fails to resubmit a State program within the days of disapproval;

(3) fails to resubmit a State program within the days of disapproval; That the Secretary shall not approve or in part, within six full months after the date a program was submitted to him, if such State program—

(1) fails to submit a State program by the end of the eighteenth-month period beginning on the date of enactment of this Act;

If State compliance with the requirements of this section is found by the State legislature, the Secretary shall not approve or in part, within six full months after the date a program was submitted to him, if such State program—

Rules and regulations.